

AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior versions and listings of claims in this application. Please amend claims 110, 111, 115, 123, 124, 126, 127, 129, 131, 135, and 137, as follows:

110. (Currently Amended) A surgical instrument used in an endoscopic fundoplication, comprising:

an elongated tube having a proximal end and a distal end;
a distal member configured to install at least one fastener, the distal member
being coupled proximate the distal end of the tube and configured to fold a fundus of a stomach toward an esophageal wall, the distal member including a rotatable member having a connected end and a free end and being configured to rotate pivot between a first position in which the free end is located distally of the connected end and a second position in which the connected end is located distally of the free end; and

a grasper configured to grasp at least a portion of the fundus or the esophageal wall;

wherein the grasper is coupled to one of the elongated tube and the distal member.

111. (Currently Amended) The instrument of claim 110, wherein the distal member includes a stationary member, and the rotatable member is rotatably pivotably coupled to the stationary member, the rotatable member rotatably pivotably movable with respect to the stationary member between the first position for

receiving at least a portion of the fundus and the esophageal wall and the second position for folding the fundus of the stomach toward the esophageal wall.

112. (Previously Presented) The instrument of claim 111, wherein the grasper is located between the stationary member and the rotatable member.

113. (Previously Presented) The instrument of claim 111, wherein the grasper includes a first grasping member rotatably coupled to the stationary member.

114. (Previously Presented) The instrument of claim 113, wherein the first grasping member includes a first grasping surface and the stationary member includes a second grasping surface associated with the first grasping surface so as to grasp the at least the portion of the fundus or the esophageal wall therebetween.

115. (Currently Amended) The instrument of claim 111, wherein ~~the distal member is configured to deploy a fastener to the at least one fastener is configured to fasten~~ the folded fundus and esophageal wall.

116. (Previously Presented) The instrument of claim 115, wherein the fastener has a first part and a second part, the stationary member is configured to hold the first part and the rotatable member is configured to hold the second part in opposed relation with the first part.

117. (Previously Presented) The instrument of claim 110, further comprising a control member configured to control operation of at least one of the distal member and the grasper, the control member located proximate the proximal end of the tube.
118. (Previously Presented) The instrument of claim 117, further comprising at least one control cable extending from the control member to at least one of the distal member and the grasper through the tube.
119. (Previously Presented) The instrument of claim 110, wherein the tube includes a port for an endoscope.
120. (Previously Presented) The instrument of claim 110, wherein the at least a portion of the fundus or the esophageal wall grasped by a grasper is a gastroesophageal junction.
121. (Previously Presented) A method of performing invagination, comprising:
 - providing the surgical instrument of claim 110;
 - inserting the surgical instrument transorally into a stomach;
 - grasping a portion of the fundus or the esophageal wall with the grasper; and
 - folding the fundus toward the esophageal wall with the distal member, while
 - grasping the portion of the fundus or the esophageal wall.

122. (Previously Presented) The method of claim 121, wherein the grasper is integrally formed with the distal member.
123. (Currently Amended) The method of claim 121, wherein the distal member includes a stationary member, the rotatable member is ~~rotatably~~ pivotably coupled to the stationary member, and the step of folding the fundus includes rotating the rotatable member with respect to the stationary member so as to fold the fundus toward the esophageal wall.
124. (Currently Amended) The method of claim 121, further comprising applying [[a]] the at least one fastener ~~with the distal member~~ to secure the fundus to the esophageal wall.
125. (Previously Presented) The method of claim 124, wherein the fastener has a male member and a female member, and the rotatable member is configured to hold one of the male and female members, the distal member further comprising a stationary member coupled to the rotatable member and configured to hold another of the male and female members in opposed relation with the one of the male and female members.
126. (Currently Amended) The method of claim 125, wherein applying the at least one fastener includes rotating pivoting the rotatable member with respect to the the

stationary member so as to cause engagement between the male and female members.

127. (Currently Amended) The method of claim 125, wherein applying the at least one fastener includes actuating an actuator for engagement between the male and female members, the actuator being coupled to the proximal end of the elongated tube.

128. (Previously Presented) The method of claim 121, wherein an endoscope is inserted into the proximal end of the elongated tube before the instrument is inserted into the stomach.

129. (Currently Amended) An instrument for folding multiple tissue layers of a body, comprising:

an elongated tube having a proximal end for extending outside of the body and a distal end for positioning proximate the multiple tissue layers; a distal member configured to fold the multiple tissue layers together, the distal member comprising:

a first member having a proximal end coupled to the distal end of the tubular member tube and a distal end; and a second member rotatably pivotably coupled to the distal end of the first member, at least one of the first and second members being configured to install at least one fastener; and

a grasper coupled to one of the distal member and the tube for grasping a portion of at least one of the multiple tissue layers.

130. (Previously Presented) The instrument of claim 129, wherein the multiple tissue layers are an esophageal wall and a fundus wall.
131. (Currently Amended) The instrument of claim 129, wherein the second member is ~~rotatable~~ pivotable between an open position for receiving the multiple tissue layers and a closed position for folding the multiple tissue layers therebetween.
132. (Previously Presented) The instrument of claim 131, wherein the grasper is located between the first member and the second member.
133. (Previously Presented) The instrument of claim 131, wherein the grasper includes a first grasping member rotatably coupled to the first member.
134. (Previously Presented) The instrument of claim 133, wherein the first grasping member includes a first grasping surface and the first member includes a second grasping surface configured to engage with the first grasping surface so as to grasp the portion of at least one of the multiple tissue layers therebetween.

135. (Currently Amended) The instrument of claim 129, wherein ~~the distal member is configured to deploy a~~ the at least one fastener is configured to fasten to the multiple tissue layers.

136. (Previously Presented) The instrument of claim 135, wherein the fastener has a first part and a second part, the first member being configured to hold the first part and the second member being configured to hold the second part in opposed relation with the first part.

137. (Currently Amended) The instrument of claim 129, wherein the second member has a connected end connected to the distal end of the first member and a free end, and the second member is configured to ~~rotate~~ pivot between a first position in which the free end is located distally of the connected end and a second position in which the connected end is located distally of the free end.